

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

---

TYRONE F. WARD JR,

Civ. No. 15-2593 (SRN/BRT)

Plaintiff,

v.

**REPORT AND RECOMMENDATION**

MINNESOTA SECURITY HOSPITAL,  
CLAY HAGLUND, JAMIE NIESEN,

Defendants.

---

BECKY R. THORSON, United States Magistrate Judge.

Plaintiff Tyrone F. Ward Jr. commenced this action by filing a complaint seeking relief under 42 U.S.C. § 1983. Ward did not pay the required filing fee for this case, but instead filed an application seeking leave to proceed *in forma pauperis* (“IFP”). (Doc. No. 2). In an Order dated August 21, 2015, this Court ordered Ward to file an entirely new pleading with all his allegations from both his original complaint (Doc. No. 1) and his “complaint/affidavit” (Doc. No. 4) in one pleading. (Doc. No. 5). Ward was also ordered to file an IFP application that included his signature in the affidavit section of the form. (*Id.*) Ward was given until September 18, 2015, to file these documents, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

That deadline has now passed, and Ward has not filed a new IFP application or an amended complaint. In fact, Ward has not communicated with the Court about this case at all since the August 21, 2015 Order. Accordingly, this Court now recommends, in

accordance with its prior Order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

### **RECOMMENDATION**

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: November 9, 2015

s/ Becky R. Thorson

BECKY R. THORSON

United States Magistrate Judge

### **NOTICE**

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set for in LR 72.2(c).

**Under Advisement Date:** This Report and Recommendation will be considered under advisement 14 days from the date of its filing. If timely objections are filed, this Report and Recommendation will be considered under advisement from the earlier of: (1) 14 days after the objections are filed; or (2) from the date a timely response is filed.